

COPY

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

THE DEPARTMENT OF TRANSPORTATION OF)
THE STATE OF ILLINOIS, for and on behalf of the)
People of the State of Illinois,)

Petitioner,)

v.)

THE BURLINGTON NORTHERN AND SANTA FE)
RAILWAY COMPANY; U.S. BANKTRUST,)
NATIONAL ASSOCIATION (formerly First Trust of)
New York, NA), as Mortgagee; and UNKNOWN)
OWNERS,)

Respondents.)

Petition for approval of the taking or damaging)
of certain properties owned by a public utility in)
Kane County, Illinois by exercising the right of)
eminent domain.)

Case No. *702-0110*

Parcel No. 1E40001PE

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Illinois Commerce Commission
RAIL SAFETY SECTION

ANSWER

Now comes respondent, The Burlington Northern and Santa Fe Railway Company ("BNSF"), and for its response to petitioner's petition for approval to take property states as follows:

1. Respondent admits the existence of the statutory enactments referred to in paragraph 1 of the petition but denies that petitioner is entitled to any relief pursuant to the aforesaid statutory enactments. Respondent does not have knowledge sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 1 of the petition.
2. Respondent admits the allegations contained in paragraph 2 of the petition.

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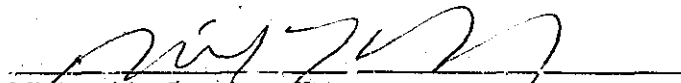
3. Respondent admits that paragraph 3 accurately quotes certain portions of the Illinois Highway Code found at 605 ILCS 5/4-501. Respondent denies that petitioner is entitled to any relief pursuant to the aforesaid statutory provision.
4. Respondent does have knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 4 of the petition.
5. Defendant admits that under certain limited circumstances as prescribed by Federal law, respondent is subject to certain jurisdiction of the Illinois Commerce Commission. Respondent denies the remaining allegations contained in paragraph 5 of the petition.
6. Respondent admits that it is title holder to the certain real property described on Exhibit A to the petition. Respondent further admits that said real property is located near certain portions of Illinois Rt. 25 and Illinois Rt. 56 in Kane County, Illinois. Respondent does not have knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 6 of the petition.
7. Respondent does not have knowledge sufficient to form a belief as to the truth of the allegation as to what authorization, if any, petitioner has obtained to acquire an easement in the property described in Exhibit A to the petition.

Respondent denies the remaining allegations contained in paragraph 7 of the petition.

8. Defendant denies the allegations contained in paragraph 8 of the petition.
9. Respondent admits that 735 ILCS 5/7-102 requires petitioner obtain certain approval from the Illinois Commerce Commission prior to initiating eminent domain proceedings against properties in which respondent railroad has an ownership or other possessory interest.

Wherefore, respondent The Burlington Northern and Santa Fe Railway Company prays that the petition for approval to take property filed by the Illinois Department of Transportation be denied.

KENNETH J. WYSOGLAD & ASSOCIATES


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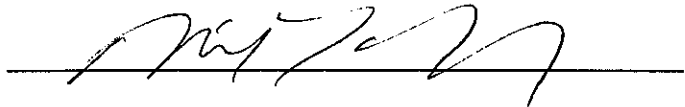
PROOF OF SERVICE

Michael L. Sazdanoff, being first duly sworn on oath, deposes and says that on the 19TH day of NOVEMBER, 2002, he caused to be served, a true and correct copy of **ANSWER** upon:

Mr. Douglas G. Felder
Special Assistant Attorney General
20 N. Clark Street, Suite 2000
Chicago, Illinois 60603

Mr. Henry Humphries
Railroad Section
Illinois Commerce Commission
527 E. Capitol Avenue
Springfield, Illinois 62701

by depositing same in the U.S. Mail depository located at Adams and Clinton Streets, Chicago, Illinois in an envelope(s) with first-class postage, prepaid.

A handwritten signature in dark ink, appearing to read "Michael L. Sazdanoff", is written over a horizontal line.